<u>REMARKS</u>

This application has been reviewed in light of the Office Action dated November 18, 2008. Claims 1-7, 15-19, and 21 are presented for examination, of which Claims 1, 15, and 21 are in independent form. Favorable reconsideration is respectfully requested.

Applicants again thank the Examiner for the courtesies extended during the interview of October 6, 2008.

On September 29, 2008, Applicants filed an RCE with a 3-month suspension of action. On November 18, 2008, the Office issued the outstanding non-final rejection. Since the Office issued an Office Action within the suspension of action period (i.e. the period between September 29, 2008 and November 29,2008), Applicants were not the afforded an opportunity to file additional arguments prior to the Office issuing an Office Action. Accordingly, Applicants respectfully request that the next Office Action be made non-final should the Office issue a rejection.

The Office Action rejected Claims 1-7, 15-19, and 21 under 35 U.S.C. § 103(a) as being unpatenable over U.S. Patent No. 7,103,575 (*Linehan*) in view of U.S. Patent Application 2003/0195037 (*Vuong et al.*, hereinafter "*Vuong*"). Applicants respectfully traverse this rejection and submit that independent Claims 1, 15, and 21, together with the claims dependent therefrom, are patentably distinct from the cited art for at least the following reasons.

Claim 1 recites, in part, "determining a first terminal analysis result . . . [and] a first PIC analsysis result, . . . [each] result indicating at least one of approving the transaction offline, approving the transaction online, and denying the transaction; and if the

terminal system receives a PIC issuer's response authorization during online authorization, determining a second terminal analysis result, at the terminal system, based at least in part on a predetermined rule and at least one of the first terminal analysis result and the first PIC analysis result, the second terminal analysis result indicating at least one of approving the transaction offline and denying the transaction" (emphasis added).

Applicants previously argued that the EMV dynamic data authentication procedure described by *Linehan* fails to teach or reasonably suggest the claimed "second terminal analysis result" because nothing in the EMV dynamic data authentication procedure described by *Linehan* performs a second terminal analysis at the terminal system which is based on a previous result (*e.g.*, Applicants' claimed first terminal analysis result or first PIC analysis result) where the previous result indicates at least one of approving the transaction offline, approving the transaction online, or denying the transaction. Applicants maintain that argument and respectfully submit that the Office still has not pointed to any portion of *Linehan* that may be reasonably equated with the claimed "second terminal analysis."

On page 4, when rejecting Claim 1, the Office Action states:

. . . determining a second terminal analysis result, at the terminal system, based at least in part on a predetermined rule (Linehan: Column 8 Line 38 – 46) . . .

Apparently the Office Action equated the claimed "second terminal analysis" with *Linehan's* "Card Action Analysis" described in *Linehan* Col. 8, lines 38-46. Applicants respectfully submit that the Office Action's reliance on a procedure executed by *Linehan's* smart card fails on its face to address the claimed "second terminal analysis" recitation because, as explicitly recited by Claim 1, the "second terminal analysis" is

performed by the terminal. For at least this reason Applicants respectfully submit that the Office Action has failed to establish a *prima facie* case of obviousness against Claim 1.

Furthermore, Applicants' have carefully reviewed the functionality of a terminal in *Linehan*, and *Linehan* as a whole, and are unable to find any feature which may be reasonably equated with the claimed "second terminal analysis." As previously discussed in Applicants' response of April 16, 2008, *Linehan* describes the widely known EMV standard in Col. 7, line 17 – Col. 9, line 13. The EMV standard is understood to perform, among other features, 1) a "Terminal Action Analysis: [where] [t]he terminal makes a preliminary decision whether to decline the transaction, authorize online, or attempt off-line authorization" (*Linehan* Col. 8, lines 22-24); 2) a "Card Action Analysis: [where] [t]he card decides how to proceed based on the input from the terminal and policies of the issuer" (*Linehan* Col. 8, lines 38-41); and 3) in the case of on-line processing, "Issuer Authentication" (*Linehan* Col. 8, lines 59-65).

Figure 7 of Applicants' specification parallels the EMV standard described by *Linehan* in certain respects. For instance, with regard to the above three features of the EMV standard, refer to the following elements of Figure 7: 1) element 715 - 1st Merchant Action Analysis, 2) element 717 - 1st Card Action Analysis, and element 723 - Issuer Authentication. Notably missing from the EMV standard described by *Linehan* are the additional steps illustrated in Applicants' Figure 7, *e.g.*, elements 725 (2nd Merchant Action Analysis) and 727 (2nd Card Action Analysis). Applicants respectfully submit that *Linehan* clearly lacks these additional features to the EMV standard and thus *Linehan* does not teach or reasonably suggest the claimed "second terminal analysis," as recited by Claim 1.

Indeed, nothing in *Linehan* even contemplates adding these two additional features to the EMV standard.

A review of *Vuong* has failed to reveal anything that, in Applicants' opinion, would remedy the deficiencies of *Linehan* discussed above, as applied against the claims herein.

For at least these reasons, Applicants submit that the Office cannot sufficiently establish a prima facie case of obviousness against Claim 1 in view of *Linehan* and *Vuong*, and that the proposed combination of *Linehan* and *Vuong*, even if deemed legally permissible or technically feasible, would fail to arrive at the method for securing a transaction of Claim 1 supporting a second terminal analysis result based on a previously determined first terminal analysis result or first PIC analysis result. Accordingly, the rejection under 35 U.S.C § 103(a) is deemed obviated, and its withdrawal is respectfully requested.

Independent Claims 15 and 21 include features similar to those discussed above with respect to Claim 1 and are believed to be patentable for at least the same reasons as discussed above with respect to Claim 1.

The other rejected claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable for at least the same reasons. Because each dependent claim also is deemed to define an additional aspect of the invention, reconsideration of the patentability of each claim on its own merits is respectfully requested.

No petition to extend the time for response to the Office Action is deemed necessary for this Amendment. If, however, such a petition is required to make this

Amendment timely filed, then this paper should be considered such a petition and the

Commissioner is authorized to charge the requisite petition fee to Deposit Account 50-

3939.

Applicants' undersigned attorney may be reached in our New York office by

telephone at (212) 218-2100. All correspondence should continue to be directed to our

below listed address.

Respectfully submitted,

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